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Paper No. 12

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In re Application of:

Galen M. Gareis :
Application No. 09/929,613 :
Filed: August 13, 2001 :
For: A Cable Separator Spline :

DECISION
ON
PETITION

This is a decision on the petition filed December 2, 2002, to withdraw the holding of abandonment of the above-identified application.

The petition is **granted**.

A final Office action was mailed on April 12, 2002. The application was held abandoned for failure to file a proper response to the Office action and a Notice of Abandonment was mailed on November 27, 2002.

Petitioner contends that the above-identified Office action was not received. To support the petition, petitioner states that the Office action was not received and attests to the fact that a search of the file jacket and docket records has been made and both indicate that the Office action was not received. A copy of petitioner's docket records where the Office action would have been docketed had it been received and docketed was also submitted.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition and supporting evidence satisfy the above-stated requirements. Accordingly, the petition is **granted**.

For the above state reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action dated April 12, 2002. The statutory period for response set therein will be reset to run three months from the date the Office action is remailed.

Inquiries regarding this decision should be directed to Ed Glick at (703) 308-4858.



Edward J. Glick, Special Programs Examiner
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